

EXHIBIT B

Terence J. Colgan, M.D.

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION

4 -----)

5 IN RE: ETHICON, INC. PELVIC) Master File
6 REPAIR SYSTEM PRODUCTS) No. 2:12-MD-02327
7 LIABILITY LITIGATION) MDL 2327

8)

9 THIS RELATES TO ALL WAVE 6)
10 AND SUBSEQUENT WAVE CASES) JOSEPH R. GOODWIN
11 AND PLAINTIFFS:) U.S. DISTRICT
12) JUDGE

13 Jerene Maxwell)

14 Case No. 2:13-cv-01703)

15)

16 Patricia Smith)

17 Case No. 2:12-cv-09857)

18 -----)

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22 --- Teleconference Deposition upon Oral
23 Examination of TERENCE J. COLGAN, M.D. called for
24 examination in the above titled action by the
25 Plaintiffs, by and through their attorneys,

Terence J. Colgan, M.D.

1 conducted in accordance with Rule 30 of the Federal
2 Rules of Civil Procedure and the procedures set
3 forth in In Re: Ethicon Inc., Pelvic Repair System
4 Products Liability Litigation, MDL No. 2327, taken
5 before me, the undersigned, Bonnie Lynn van der
6 Meer, C.S.R. (Ontario), Certified Shorthand
7 Reporter and Commissioner of Oaths within and for
8 the Province of Ontario, at the law offices of
9 Blake, Cassels & Graydon LLP, 199 Bay Street
10 Suite 4000, Commerce Court West, Toronto, Ontario,
11 Canada, M5L 1A9, on Thursday, the 21st day of
12 September, 2017, commencing at 8:59 a.m. (EST) and
13 concluding the same day.

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Terence J. Colgan, M.D.

1 A P P E A R A N C E S:

2 (REPORTER'S NOTE: There were no remote attendees.)

3

4 FOR PLAINTIFFS:

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23 COURT REPORTER: Bonnie Lynn van der Meer, CSR

24 Commissioner of Oaths

25 (Commission Expires August 4, 2019)

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1 from my previous reading and investigations.

2 Q. The document is titled a "General
3 Reliance List".

4 Is it your testimony that you have not
5 reviewed and are not relying upon every article
6 that's in there? Because I won't go through many
7 of them if that's the case.

8 MR. DAVIS: Object to the form.

9 THE WITNESS: I have not relied on
10 every article in this extensive list.

11 BY MR. RESTAINO:

12 Q. Did you make this list up or did
13 someone make it up for you?

14 A. As I mentioned previously, I have
15 not seen this list.

16 Q. Okay. And then, just one other
17 housekeeping thing that I failed to mention, just
18 again for your comfort level there.

19 In the very rare circumstance where I
20 may ask a bad question, the gentleman to your right
21 may object to the question or even if it's a good
22 question, he may object to preserve his right on
23 the record.

24 Doesn't mean you don't have to answer
25 the question.

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1 A. I'm in the department of
2 laboratory medicine and pathobiology.

3 Q. And what is your medical -- well,
4 strike that.

5 You are a physician; correct?

6 A. Correct.

7 Q. And where did you go to medical
8 school?

9 A. University of Toronto.

10 Q. And after medical school, did you
11 engage in a, we used to call it a "rotating
12 internship", first year; something like -- what did
13 you do your first year after medical school?

14 A. In fact, it was a rotating
15 internship which included rotation through a
16 variety of specialties.

17 Q. Mm-hmm. And depending upon the
18 specialty, some physicians go through different
19 rotations during that rotating internship; correct?

20 A. Correct.

21 Q. Did you get to select the
22 specialties that you wanted to go through or were
23 they selected for you?

24 A. Most of the rotating internships'
25 rotations were defined. There was a limited

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1 ability to do some elective rotations.

2 Q. Did you rotate through any
3 surgical specialty during that first year?

4 A. I did a surgical as well as an
5 obstetrical and gynecologic rotation.

6 Q. Okay. And then you went into the
7 residency training of pathology?

8 A. Correct.

9 Q. What is "pathology" for the Court?
10 In other words, the Court may be reading this or
11 portions of this may be read to the Court or the
12 jury.

13 Some of the questions may seem rather
14 sophomoric, but just if you could define
15 "pathology".

16 A. "Pathology" is the diagnosis and
17 investigation of disease through the examination of
18 tissues and fluids.

19 Q. Why study disease?

20 A. In academic centers, it's
21 important to have new insights into disease so as
22 to identify better methods of treatment.

23 Q. Okay. And you started off by
24 saying "in academic".

25 Does that compare to clinical

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1 pathology?

2 A. I think if one isn't in an
3 academic pathology environment and is restricted to
4 clinical practice only, then it would be the
5 diagnosis of disease through tissues and fluids.

6 Q. And is your... (Clearing throat)
7 Excuse me. I'm sorry.

8 Is it your academic interest, as a
9 pathologist, to look into the -- to gain insight
10 into the etiology of disease?

11 A. Yes, within the time allotted in
12 my position.

13 Q. What do you mean by that?

14 A. I spend most of my time doing
15 diagnosis through the examination of tissues.

16 Q. Okay. So tissue that comes to you
17 say, for example, from the Operating Room?

18 A. That's right.

19 Q. Okay. And in your role as a
20 pathologist, do you seek to determine how the body
21 responds to and repairs injury?

22 A. On a daily basis, I don't seek to
23 identify how the body responds to injury.

24 Q. Okay.

25 A. I use what is available in the

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1 published surgical pathology literature.

2 Q. Okay. Now, are you a
3 gynecologist?

4 A. No, I am not.

5 Q. Are you a uro-oncologist?

6 A. No, I am not.

7 Q. And are you a urogynecologist?

8 A. No, I am not.

9 Q. Okay. When was the last time you
10 took a history from a living patient? And this
11 could be one of those estimate questions. I don't
12 need the day.

13 A. I have been practicing pathology
14 for over 25 years and during that time, I -- it has
15 not been my role to interact directly with patients
16 and to take clinical histories.

17 Q. Okay. And if I was to ask you,
18 when was the last time you performed a physical
19 examination on a patient, would your answer be the
20 same?

21 A. Yes, it would.

22 Q. If I was to ask you, when was the
23 last time you listened to subjective complaints of
24 a patient, would your answer be the same?

25 A. No. I do, on occasion, have

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1 Laboratory Medicine and Pathobiology at the
2 university. Is that correct?

3 A. The University of Toronto is an
4 umbrella academic organization which embraces
5 several to multiple hospitals across Toronto.

6 So my clinical appointment is at the
7 Sinai Health System or Mount Sinai Hospital where I
8 conduct my clinical practice.

9 Q. So it's one institution with
10 umbrella hospitals. Is that correct?

11 A. It's the umbrella university over
12 many different hospitals.

13 Q. Okay.

14 A. And my clinical practice would be
15 restricted to the one hospital system.

16 Q. Okay. Now, a colleague at the
17 University of Toronto in the Department of
18 Pathology is Dr. Vladimir - forgive me if I'm not
19 going to pronounce his last name correctly. Is it
20 "Iakolev" (ph)?

21 MR. DAVIS: "Iakolev" (ph).
22 "Iakovlev".

23 MR. RESTAINO: "Iakolev"?

24 MR. DAVIS: "Iakovlev".

25 BY MR. RAPHAEL:

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1 Q. Okay. Have you ever received
2 funding from Ethicon or any other manufacturer of
3 mesh, whether abdominal or pelvic, to conduct
4 research on?

5 A. No, I have not.

6 Q. From looking at your CV, you have
7 overseen the responsibilities of various visiting
8 scholars and fellows to Mount Sinai Hospital. Is
9 that correct?

10 A. This is correct.

11 Q. And have you ever overseen a
12 visiting scholar or fellow conducting research into
13 vaginal mesh?

14 A. No, I have not.

15 Q. Or abdominal mesh?

16 A. No, I have not.

17 Q. Looking at your 2016 CV, I counted
18 that there were 152 articles, refereed or
19 peer-reviewed articles.

20 Is it your testimony today that the
21 latest or most current CV would contain more than
22 that 152.

23 A. Yes. It would probably be closer
24 to 160.

25 Q. Okay. Any of those, refereed or

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1 peer-reviewed articles published in the
2 peer-reviewed medicine deal with vaginal or -- or
3 abdominal mesh?

4 A. No, they do not.

5 Q. Now, again looking at papers that
6 have been presented to learned societies in your
7 CV, have you ever presented any papers to a learned
8 society on abdominal or vaginal mesh?

9 A. No, I have not.

10 Q. Looking at Dr. Iakovlev's CV, I
11 noticed that he lists a number of lectures,
12 workshops and visiting professorships where he has
13 lectured on the pathology associated with mesh.

14 To the best of your recollection, have
15 you ever attended any of those lectures?

16 A. To my best of my recollection, no,
17 I have not attended any of those workshops.

18 Q. Okay.

19 MR. RESTAINO: I'm now going to ask the
20 court reporter to mark as Number 6 the expert
21 report that I have been provided with that is
22 authored by yourself.

23 --- (Discussion off the record.)

24 --- EXHIBIT NO. 6: Expert Report of
25 Terence J. Colgan, MD, dated June 19, 2017, with

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1 -- expert opinions regarding vaginal mesh and
2 pathology?

3 A. It was late in 2016.

4 Q. And who was it that contacted you
5 at that time?

6 A. It was Mr. Andy Snowden.

7 Q. And were you asked to do anything
8 at that time for Mr. -- well, let me ask you this:
9 Was Mr. Snowden a representative of Ethicon?

10 A. He is a lawyer with Snow Butler.

11 Q. Okay.

12 A. At that time, I did not know who
13 he was representing.

14 Q. Okay.

15 MR. DAVIS: It's actually Butler Snow,
16 but that doesn't matter.

17 THE WITNESS: Sorry.

18 MR. DAVIS: That's all right.

19 BY MR. RESTAINO:

20 Q. And at that time, did you hold
21 yourself out to be an expert in pathology
22 associated with vaginal mesh?

23 A. I did not hold myself out to be an
24 expert in vaginal mesh.

25 He had called me because I have been

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1 active and I would like to think somewhat prominent
2 in the gynecologic pathology community in North
3 America.

4 Q. Okay. Do you have any expertise
5 in the pathology associated with mesh utilized for
6 herniorrhaphy or abdominal repairs?

7 A. No, I do not.

8 Q. Okay. If, tomorrow, when you are
9 in your real job, a general surgeon removes mesh
10 from the abdomen, would that be something that
11 would be sent to you or would that go to another
12 pathologist in your department?

13 A. Until very recently, it would have
14 come to me.

15 Our hospital has recently adopted a
16 subspecialty practice model, so abdominal material
17 would move to another group of pathologists.

18 Q. Okay.

19 If you look at page 3 -- first, on the
20 expert report, did you write this yourself?

21 A. I did.

22 Q. Is there any language in there
23 that was provided to you by anyone else?

24 A. I had general discussions with
25 Mr. Snowden, but no, this is my work.

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1 may have 30 or 40 different chapter authors, but
2 there's only three editors-in-chief. Their name
3 goes on the front.

4 Q. So of those 30 or so authors, if
5 each had their own chapter - so let's just assume
6 for a moment there's 30 chapters - would you expect
7 those three editors to have that degree of
8 expertise to peer-review the subject matter in all
9 30 areas?

10 A. The editors contribute in two
11 ways. One is in substance and, as you suggest, the
12 chapter authors may have greater knowledge of that
13 particular area.

14 But the second duty an editor has is to
15 look at the rationale of arguments; has the
16 scientific proof been made, which is important to
17 the overall success of the text.

18 Q. Okay. Would you agree that peer
19 review is an important part of medical publication,
20 whether it's in textbooks and/or medical journals?

21 A. The success of peer review has
22 come under scrutiny in the last ten years with the
23 rise of electronic publishing.

24 I think, years ago, scientists were
25 wedded to the concept that peer review was

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1 essential to a scientific article and provided good
2 scientific evidence.

3 What we are seeing now, though, with
4 the proliferation of journals and of electronic
5 media, is that quality of peer review can be very
6 spotty and, in fact, the best outcome or the best
7 way to judge the success and veracity of a paper is
8 its influence down the road. Is it used? Are its
9 findings duplicated or not?

10 Q. If you would turn in your expert
11 report to page 3. The fourth line down on the
12 right, you write:

13 "I see over 5,000 cases per
14 annum."

15 Do you see that, sir?

16 A. Actually, I must be on the wrong
17 page.

18 Q. Page 3.

19 A. Yeah. Sorry.

20 As chance would have it, I'm missing
21 page 3.

22 MR. DAVIS: You know what? The copy
23 you gave me has two page 3's. It may have been --
24 it may have been that my copy --

25 MR. RESTAINO: That was my stapling

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1 last night.

2 MR. DAVIS: Yeah. That's all right.

3 MR. RESTAINO: My apologies.

4 THE WITNESS: Yes. There were five
5 thou- -- yes.

6 BY MR. RESTAINO:

7 Q. And I believe I have already asked
8 you this. Forgive me.

9 Approximately, of those 5,000, can you
10 estimate how many of them involved mesh?

11 A. It would be less than 1 per
12 percent.

13 Q. Okay. And are there other members
14 of the Department of Laboratory Medicine and
15 Pathobiology at the University of Toronto that also
16 see mesh, vaginal mesh that had been excised from
17 women?

18 A. There are active women's programs
19 and gynecologic divisions in most of the university
20 hospitals and I wouldn't be surprised if some,
21 perhaps many of them do excise mesh and these
22 specimens would be submitted to the hospital's
23 pathology department.

24 Q. Okay. Do you have an estimate of
25 how many mesh are submitted to the Department of

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1 Pathology at the University of Toronto in toto?

2 A. I know of no database that would
3 tell you that number.

4 Q. Okay. Now still on page 3 which
5 you don't have and Paul has two copies of,
6 approximately at the middle of the page, you write
7 that, as you discuss having contributed to over 150
8 articles:

9 "Two of the papers examine the
10 inflammatory and healing reactions
11 in the gynecologic tract following
12 embolic therapy and hysteroscopic
13 surgery." [As read.]

14 With references 1 and 2. Do you recall
15 that?

16 A. Yes, I do.

17 Q. Why did you include those
18 references in your report on the pathology
19 associated with mesh?

20 A. I thought they were germane
21 because there are shared similarities in the
22 inflammatory reaction to post-embolic therapy and
23 to hysteroscopic surgery; that is, they elicit a
24 macrophage and foreign body giant cell reaction, as
25 one can see in mesh or one almost ubiquitously sees

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1 the court reporter to mark his web page as Number
2 7, I think.

3 THE COURT REPORTER: Yes.

4 ---EXHIBIT NO. 7: A printout of the
5 University of Toronto Laboratory Medicine &
6 Pathobiology faculty web page pertaining to Dr.
7 Vladimir Iakovlev.

8 BY MR. RESTAINO:

9 Q. And again, I asked you, do you
10 know Dr. Iakovlev on a personal basis?

11 A. I do not know him on a personal
12 basis.

13 Q. Okay.

14 Now, one of the materials that you were
15 asked to review is a paper that is -- that was
16 co-authored by Dr. Iakovlev, titled Degradation of
17 polypropylene in vivo: A microscopic analysis of
18 meshes explanted from patients.

19 Is that correct?

20 A. That is correct.

21 Q. And did you, in fact, review that
22 for purposes of your expert report?

23 A. I did.

24 Q. And do you consider yourself a
25 peer of Dr. Iakovlev in this area?